

Nadler Says IG Report Confirms That EPA-led Cleanup is Flawed and Inadequate

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NEW YORK -- US Congressman Jerrold Nadler (D-NY) today applauded the Inspector General (IG) of the Environmental Protection Agency (EPA) for confirming that the EPA's post- 9/11 "Indoor Air Residential Cleanup Program" is flawed and inadequate and, according to its report, does not meet "the minimum criteria for protecting human health the EPA established. . . ." Rep. Nadler also called on New York City Mayor Michael Bloomberg to demand a proper cleanup. He said that Mayor Bloomberg must clarify the City's position regarding newly revealed evidence by the IG that the EPA used an alleged City rejection of federal assistance as justification for its failure to provide.

"Beyond the damning facts about White House interference, the IG has found that the EPA-led cleanup was improperly limited in scope, deeply flawed in methodology, and fails to utilize its own standard health-based benchmarks," said Rep. Nadler. "But, luckily, we still have time to do it right if President Bush makes good on the federal government commitment to 'spare no expense.'"

Rep. Nadler has been a long-time critic of the Cleanup Program, which was initiated in May of 2002. He has said that the program isn't premised on a "health-based standard," fails to mitigate against recontamination because of the program's voluntary nature, uses non-aggressive sampling methods that are likely to result in "false negatives," is limited only to asbestos (as opposed to the many other contaminants confirmed to be in the dust), has arbitrary physical boundaries, and ignores workplaces altogether.

Representative Nadler also said today that Mayor Bloomberg could play a key role in advocating for a proper federal cleanup, by clarifying the City's intentions, which are in dispute in the IG's report.

According to the report, EPA officials stated on two different occasions that New York City "will not be requesting State or Federal assistance for residential sampling or reoccupation issues."

The City, in its response to a draft version of the IG report, flatly denied the assertion that it sought no federal help on indoor air contamination. Mr. Kenneth A. Becker, Chief of the World Trade Center Unit of the NYC Department of Law wrote on August 4, 2003, "The City can. . .confirm . . .that it welcomed any authorized federal assistance. . ."

According to the IG's report, the EPA used the City's alleged rejection of federal assistance as a justification for not exercising its responsibility to clean interiors under the federal regulation known as the National Contingency Plan (NCP). The EPA has said repeatedly that it was not required to act under the NCP, but that it could use its "discretion" as to whether or not, and how, to act. When, in 2002, the EPA finally did initiate its indoor cleanup program, that program fell woefully short and did not comply with the strict provisions of the NCP.

Even so, the IG's report confirms that the EPA was, in fact, required to respond to indoor air contamination under the provisions of another federal law, Presidential Decision Directive (PDD) 62, which makes the EPA the "lead" emergency responder for cleanup of building interiors after a terrorist attack. The EPA has never commented on its lack of compliance with PDD 62.

"Frankly, as I have stated since March of 2002, it is clear to me and to the Inspector General that the EPA was required to clean up all indoor spaces under PDD 62. But, just to clarify things even further, Mayor Bloomberg should amplify the City's request and demand a for full and proper cleanup under the provisions of the NCP, so that the EPA cannot get away with using this excuse any more," said Rep. Nadler.

Rep. Nadler added, "If Mayor Bloomberg wants to ensure the long-term health and safety of NYC residents, workers and students, he must make good on his commitment on Sunday to do 'anything we can downtown and throughout all five boroughs to make sure that the air people breathe is clean.' He must request a new cleanup and that it be done right this time."

"The people of New York City lost more faith in their government this week when they learned that the White House doctored EPA press releases and provided false health assurances. We still have time to help restore that sacred trust and protect the public health, but only if the federal government acts quickly and does this thing right," said Rep. Nadler

SUMMARY OF EPA INSPECTOR GENERAL'S RECOMMENDATIONS

FOR PROPER NEW YORK CITY CLEANUP PLAN

- Ensure that the a any new cleanup program meets Superfund (CERCLA, NCP) regulations and guidelines;
- Treat contaminated buildings as a system. The EPA's selective cleaning of individual apartments does not ensure that cleaned apartments will not be re-contaminated by uncleaned apartments through the HVAC system;
- Employ aggressive sampling methods;
- Test for all "contaminants of concern;"
- Include work spaces and schools in the program; and
- Expand the arbitrary geographic boundaries to included all areas impacted by the WTC dust in the effort. EPA's decision to clean residences only south of Canal Street in Manhattan neglects the need for clean-up in locations that were under the dust cloud, including the Lower East Side, Chinatown, and parts of Brooklyn.

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